

## LABOUR DEPARTMENT

The 28th September, 1984

No. 9/5/84-GLab/6513: In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management, of M/s Saz International Pvt. Ltd., Plot No. 46-49, DLF Industrial Area II, Faridabad :—

IN THE COURT OF SHRI R.N. SINGAL PRESIDING OFFICER LABOUR COURT  
FARIDABAD

Reference No. 134 of 1982

between

SHRI CHANDERMA PARSHAD, WORKMAN AND THE RESPONDENT MANAGEMENT OF  
MJS SAZ INTERNATIONAL PVT. LTD., PLOT NO. 46-49, D. L. F, INDUSTRIAL  
AREA-II, FARIDABAD

Present:

Shri R.N. Roy, for the workman.

Shri J.S. Saroha, for the management.

## AWARD

This reference has been referred to this court by the Hon'ble Governor of Haryana.—vide his order No. 11/D/54/82/24915, dated 2nd June, 1982, under Section 10(i)(c) of the Industrial Disputes Act, 1947 for adjudication of the industrial dispute existing between Shri Chanderma Parshad, workman and the respondent management of M/s Saz International Pvt. Ltd., Plot No. 46-49, D.L.F. Industrial Area II, Faridabad. The term of the reference was :—

Whether the termination of service of Shri, Chanderma Parshad was justified and in order? If not to what relief is he entitled?

The averments in the claim statement are that the claimant was appointed on 11th April, 1981 as tailor on a monthly wages of Rs. 450 per month. His services were terminated on 11th February, 1982. He was paid wages for 10 days and his services were terminated. He was not paid notice pay and retrenchment compensation and wages in lieu of leaves at credit. This termination is not by way of contract or any misconduct. In place of the workman, the management has employed five persons on the job. It is alleged that the termination of services amounts to retrenchment under Section 2 (oo) of the Industrial Disputes Act. Hence the provisions of Section 25-F has not been complied with.

This claim has been contested by the management in the written statement. It is *inter-alia* pleaded that the claimant was employed on 11th September, 1982 purely on temporary basis on 15 rupees per day. His services were terminated on 10th February, 1982 as per terms of contract. The claimant was paid all his dues.

The parties contested the reference on the following issues :—

1. As per reference "

I have heard representative of both the parties and gone through the evidence on record and my findings on the issue is as under :—

Issue No. 1

It is proved that the claimant was employed.—vide appointment letter Exhibit M-2. It is dated 1st September, 1981. He was appointed for two months only. Later on this period was extended upto 12th February, 1982. This order was also signed by the claimant. It is, therefore, clear that the claimant was employed with the respondent on temporary basis.

The representative of the workman has contended relying on the judgement in British India Corporation Ltd. between the workman, 1954(2) LLJ—that the services of temporary employee terminated due to *mala fide* or with ulterior motive, the Labour Court must give relief. This judgement does not apply to the present case. There is no allegation that the services of the workman has been

terminated mala fide. It is alleged that the workman was posted against a post which is of permanent nature. He should be considered to be permanent. This contention has no force as the workman has not completed 240 days of service. The provision of Section 25-F of the Industrial Disputes Act, 1947 do not apply in this case. Under rule 17(2) of the Haryana Model Standing order notice is required for terminating the services of a permanent employee. A permanent employee is one who has completed more than 13 months service. In order services no such notice is required. Hence in the present case, no notice is required for terminating the services of the claimant. It has been held in Cropper Engineering Co., Madras versus Addl. Labour Court, 1975-1 LLJ page 207 that no rule or law contemplates that casual and temporary workmen must be given work again by the employer. Casual employees engaged for a long time or numerous occasions do not make any difference. Services in such cases came to an end. There is no law that they should be given work by the employer.

In these case the services of the claimant came to an end on 10th February, 1982 on which date he received full and final payment,—vide receipt Exhibit M-5.

In view of the above discussions the award is given against the workman. His services were legally and validly terminated. He is not entitled to any relief.

The 29th August, 1984.

R.N. SINGAL,

Presiding Officer,  
Labour Court, Faridabad.

Endorsement No. 1886, dated 6th September, 1984.

Forwarded (four copies), to the Commissioner, and Secretary to Government Haryana, Labour and Employment Department, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947.

R.N. SINGAL.

Presiding Officer,  
Labour Court,  
Faridabad.

No. 9/5/84-Lab/6523. In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and management of M/s Haryana Roadways, Rewari.

IN THE COURT OF SHRI R.N. SINGAL, PRESIDING OFFICER, LABOUR COURT,  
FARIDABAD

Reference No. 251 of 1982

between

SHRI JAGDISH CHAND, WORKMAN AND THE RESPONDENT MANAGEMENT OF M/S  
HARYANA ROADWAYS REWARI

Present :

Shri S.K. Yadav for the workman

Shri Randhir Singh for the management.

#### AWARD

This reference has been referred to this court by the Honble Governor of Haryana,—vide his order ID/GGN/38/82/45344, dated 8th October, 1982, under section 10(n)(c) of the Industrial Disputes Act, 1947 for adjudication of the Industrial dispute existing between Shri Jagdish Chand, workman and the respondent management of M/s Haryana Roadways, Rewari. The term of the reference was :—

Whether the termination of service of Shri Jagdish Chand was justified and in order ? If not to what relief is he entitled ?

According to the claim statement, the services of the workman were terminated,—vide letter date 31st March, 1982 with effect from 3rd April, 1982. This order of termination is challenged as wrong and illegal

and an act of victimisation. The workman was appointed,—vide letter dated 16th March, 1981. He worked for more than 240 days and hence has acquired the status of permanent employee. The break in service has been shown illegally. On that day he had worked on bus No. HRM 7465. He was not given any notice nor was tendered any pay. Hence this termination is challenged.

In their reply the management has contended that the workman was appointed on temporary basis. His services were terminated on 24th February, 1982. He was again appointed on 25th February, 1982 on temporary basis. His services were again terminated on 22nd March, 1982 and he was again appointed temporarily on 23rd March, 1982. It is contended that he has not completed 240 days of service. Hence his services were legally terminated. It is further alleged that he embezzled certain amount. On this his services were terminated under the terms of appointment letter.

Rejoinder has been filed claiming that the workman has completed more than 240 days. The parties contested the claim on the following issue : —

1. As per reference ?

I have heard both the parties and gone through the evidence on record. My findings on the issue are as under :—

Issue No. 1 :

It is admitted by both the parties that the workman has been appointed on 17th March, 1981 and his services were terminated on 3rd April, 1982. It is alleged that during this time services of the workman were discontinued on 24th February, 1981 and again on 22nd March, 1982. After this break he was appointed immediately on the next day. It is contended that the break in service is only a notional break and it is unfair labour practise. This has been held by the Hon'ble Punjab and Haryana High Court, in 1984-LJC page 974—Kapurthala Central Co-operative Bank *versus* Presiding Officer, Labour Court. It is held that where the services of the workman were terminated on their rendering 230 days service with notional breaks when the work of the workman was satisfactory and others has been recruited in their place. It was an instance of unfair labour practise. It was held that the workmen were entitled to reinstatement with full back wages.

In the present case the break is notional and it is unfair labour practise. It has been admitted by the W.W. 2 Shri Lal Singh Clerk of the Haryana Roadways that on 24th February, 1982 the workman was on duty. He had gone from Narnaul to Rohtak in Bus No. 7465 and he was also on duty on 22nd March, 1982. It is therefore, clear that on both dates i.e. 24th February, 1982 and 22nd February, 1982 for which the break has been shown in service, the workman was on duty. Hence there was no break in service. The break was shown only as unfair labour practise.

The management has examined some witnesses to prove that the workman has embezzled some amount. If the workman has embezzled some amount his service could be terminated after enquiry, but in the present case no charge sheet was issued and no enquiry was held. Hence evidence was given that the workman has embezzled some amount. It is meaningless. It is an admitted fact that before terminating the services of the workman, the provisions of Section 25-F of the Industrial Disputes Act were not complied with. It has been held in the case of Smt. Santosh Gupta *versus* State Bank of India Page 72 1980 (1) LLJ that discharge of an employee for any reason except on the ground mentioned in the proviso of the definition amounts to retrenchment, and if condition of Section 25-F has not been complied with the workman is entitled to reinstatement with full back wages.

In view of the above discussions I answer the reference in favour of the workman. The order of termination of services of the workman is not justified and in order. He is therefore, entitled to reinstatement with continuity of service and full back wages. The award is given accordingly.

The 24th August, 1984.

R.N. SINGAL,  
Presiding Officer,  
Labour Court,  
Faridabad.

• Endorsement No. 1890, dated 6th September, 1984.

Forwarded (four copies), to the Commissioner and Secretary to Government Haryana, Labour and Employment Department, Chandigarh as required under Section 15 of the Industrial Disputes Act.

R. N. SINGAL,  
Presiding Officer  
Labour Court,  
Faridabad.